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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,166	10/12/2001	Prathima Agrawal	APP 1311-US	1983
9941	7590	07/26/2005		EXAMINER
				PHUNKULH, BOB A
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/976,166	AGRAWAL ET AL.	
	<b>Examiner</b> Bob A. Phunkulh	<b>Art Unit</b> 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 October 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 3-6 is/are allowed.
- 6) Claim(s) 1,2,7-9 and 16-18 is/are rejected.
- 7) Claim(s) 10-15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10/12/2001.
  - 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
  - 5) Notice of Informal Patent Application (PTO-152)
  - 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-9, 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Davies et al. (US 6,463,285), hereinafter Davies.

Regarding claim 7, Davies discloses a method for transmitting data from a base station, said method comprising the steps of:

generating layer-2 frames of the same length (see step 203, figure 2);

filling each of said generated frames with data blocks received from a layer above layer-2 (the base station receives layer-3 packets and segmenting the packets into N layer-2 frames, see figure 2);

and transmitting only said fully filled frames, unless a timer expires, or instructions are received from the layer above layer-2 to transmit the frame currently being filled (step 209, see figure 2).

Regarding claim 8, Davies discloses layer-2 is a link layer protocol that is executed on a radio interface of the base station (figure 2 shows the flow chart executable by the base station, see col. 5 lines14-52).

Regarding claim 9, Davies the layer above the link layer is a network layer executing an IP layer protocol and the data blocks are comprised of IP packets (see col. 5 lines 14-52 and figure 2).

Regarding claim 16, Davies discloses a base station for transmitting data, the data being comprised of data blocks received from a data block generator, said base station comprising:

a layer-2 frame generator for generating layer-2 frames of the same length (see step 203, figure 2);

means coupled to said layer-2 frame generator for filling each frame generated by said layer-2 frame generator with the data blocks (the base station receives layer-3 packets and segmenting the packets into N layer-2 frames, see figure 2); and

a transmitter coupled to said filling means, wherein said transmitter sends out only fully filled frames, unless a timer expires or instructions are received from the data block generator to transmit the frame currently being filled (step 209, see figure 2).

Regarding claim 17, Davies discloses layer-2 is a link layer protocol that is executed on a radio interface of the base station (figure 2 shows the flow charts execute by the base station, see col. 5 lines14-52).

Regarding claim 18, Davies the layer above the link layer is a network layer executing an IP layer protocol and the data blocks are comprised of IP packets (see col. 5 lines 14-52 and figure 2).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies.

Regarding claims 1-2, Davies fails to explicitly disclose a method for generating two matchable streams of packets (same packet) for delivery to a mobile station from two different base stations.

Davies, however, disclose that the wireless terminal 101 may receive signals from multiple base stations (see col. 3 lines 11-39).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made cause the wireless terminal 101 to concurrently

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receives the same segmented packets from two different base stations in order to maintains connection sessions during handoff.

***Allowable Subject Matter***

Claims 10-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3-6 are allowed.

***Conclusion***

**Any response to this action should be mailed to:**

The following address mail to be delivered by the United States Postal Service (USPS) only:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**Or:**

The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

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Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tursday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Chau Nguyen**, can be reach on **(571) 272-3126**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bob A. Phunkulh  
Bob A. Phunkulh  
Primary Examiner  
TC 2600  
Art Unit 2661  
July 22, 2005

**BOB PHUNKULH**  
**PRIMARY EXAMINER**